IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Crl.L.P..No. 523 of 2007()

CC.2656/2003 of JUDICIAL FIRST CLASS MAGISTRATE COURT, MUVATUPUZHA

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PETITIONER/COMPLAINANT:

SABU GEORGE, NADUVILA CHENNAMKULAM VEEDU,
MUTHOLAPURAM PO.O, ELANJI,
ERNAKULAM DISTRICT.

BY ADVS. SRI.GEO PAUL
SRI.SANU MATHEW
SRI.K.R.UDAYAKUMAR

RESPONDENTS/ACCUED & STATE:

1.MR. K.T.MICHAEL,
KOLLAMPLACKAL VEEDU, BLOCK NO.1347,
ILLIKKANAM, NEDUMKANDAM, IDUKKI DISTRICT.

2.STATE OF KERALA, REPRESENTEDL BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. THOMAS JOHN AMBOOKKAN -R2

THIS CRIMINAL LEAVE PETITION HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.THANKAPPAN, J.

CRL. L.P. NO. 523 OF 2007

Dated this the 22nd day of August, 2007

O R D E R

This is a petition for special leave to appeal against the judgment in C.C. No.2656 of 2003 on the file of the Judicial First Class Magistrate's Court, Muvattupuzha.

2. The specific allegation in the complaint was that the accused - first respondent herein borrowed from the petitioner an amount of Rs.75,000/- and issued Ext.P1 cheque towards discharge of the above liability which when presented to the bank for encashment was dishonoured due of insufficiency of funds in the account of the accused. After complying with the statutory provisions, the complaint was filed. To prove the case against the accused, the complainant himself was examined as PW.1 and Exts.P1 to P9 were produced. On the side of the defence, DW.1 was examined and Ext.D1 was produced. After closing the evidence of the complainant, the accused was questioned under Section 313 Cr.P.C. The accused denied the transaction which led to the issuance of the cheque in question. After considering the entire evidence, the trial

court found the accused not guilty and acquitted him.

3. The case set up by the accused - first respondent was that he had borrowed an amount of Rs.10,000/- from one Sarangadharan and gave Ext.P1 cheque as security and that though he repaid the amount, the cheque was not returned to him. The accused had a further case that the complainant who was engaged in the supply of electronic goods used to supply electronic goods to the said Sarangadharan and that when a difference of opinion arose between himself and Sarangadharan, the cheque in question was misused by the complainant. The petitioner - complainant had also stated before the court below that he was not aware of the place of residence or business of the accused. In the above circumstances, the trial court found that the petitioner - complainant failed to prove the case against the accused. After considering the entire evidence, this Court is of the view that the impugned judgment requires no interference.

The Crl. Leave Petition is accordingly dismissed.

(K.THANKAPPAN, JUDGE)

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